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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,583	09/29/2000	Alberto F Alvarez-Calderon		3871

7590 01/10/2005

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EXAMINER

SWINEHART, EDWIN L

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/677,583	ALVAREZ-CALDERON, ALBERTO F
Examiner	Art Unit	
Ed Swinehart	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1)  Responsive to communication(s) filed on \_\_\_\_.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

- 4)  Claim(s) 1-4, 6-16, 19, 25, 26, 28, 30-32, 36 and 38-54 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-4, 9-12, 15, 19, 25, 26, 28, 30-32 and 38-54 is/are rejected.

7)  Claim(s) 6-8, 13, 14, 16 and 36 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date . . .

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

### DETAILED ACTION

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 28 is of multi-paragraph form.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 40-43,46,49 and 54 are rejected under 35 U.S.C. 102(b) as being anticipated by Mills.

Mills teaches the claimed hull shape in figure 2.

Re "surface and subsurface..." such fails to define any specific structure and/or arrangement so as to define over the hull of Mills, as such is a statement of intended use, carrying no weight in the claim.

Re claim 46, any hull is adapted as claimed.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3617

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4,9-12,15,19,28,44 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills in view of Vandersteel.

Mills fails to disclose lateral wings.

Vandersteel teaches same.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Mills with roll stabilization as taught by Vandersteel.

Such a combination would have been desirable at the time the invention was made so as to provide for passenger comfort.

The craft of Mills will at time inherently display the claimed buoyancy characteristics, such as when operating in heavy seas.

Re "when...", such is not a positive recitation, and accordingly carries no weight in the claims.

Provision of propulsion is not considered invention.

7. Claims 47 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills in view of Rowe.

Mills fails to disclose a parachute.

Rowe teaches same.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a parachute to Mills as taught by Rowe.

Such a combination would have been desirable at the time the invention was made so as to provide for air deployment.

Re claim 51, provision of propulsion means is considered to have been within the level of skill of the ordinary routineer.

8. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mills in view of Matheson.

Mills fails to disclose wheels.

Matheson teaches same.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide retractable wheels to Mills as taught by Matheson.

Such a combination would have been desirable at the time the invention was made so as to provide the ability to operate on land.

9. Claims 25,26,32,38,39 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levedahl in view of Vandersteel.

Levedahl discloses a ship as claimed, including a generally pyramidal superstructure attached atop a hull exhibiting the claimed shape. Levedahl fails to disclose wings.

Vandersteel is applied as above.

10. Claims 30,31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levedahl in view of Vandersteel as applied to claim 25 above, and further in view of Karafiath et al.

Levedahl fails to disclose a trailing edge flap.

Karafiath et al. discloses same.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a trailing edge flap to Levedahl as taught by Karafiath et al.

Such a combination would have been desirable at the time the invention was made so as to provide improved performance.

Re claim 31, "when" renders the recitation other than positive, and such is accorded little weight.

11. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mills in view of Karafiath et al.

Karafiath et al. is applied as above.

12. Claims 44 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills in view of Berne.

Mills fails to show retractable fins.

Berne teaches same, and is applied as was Vandersteel above.

13. Claims 6-8, 13, 14, 16 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Swinehart whose telephone number is 703-308-

Art Unit: 3617

2566. The examiner can normally be reached on Monday through Thursday 6:30 am to 2:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ed Swinehart  
Primary Examiner  
Art Unit 3617